

REMARKS

Claims 1-4, 6, 7, 12, 13 and 15-18 are pending. Claims 1, 2, 15 and 16 have been amended. Claim 1 has been amended to remove the recitation of a "derivative," "analog," "polymorph" or "solvate" of the compounds of formula (I). Claim 2 has been amended to remove the recitation of a "polymorph" or "solvate" of the recited compounds. Claims 15 and 16 have been amended to remove the phrase "or prophylaxis." No new matter has been introduced by way of these amendments.

Rejections under 35 U.S.C. § 112, First Paragraph

Claims 15-18 are rejected under 35 U.S.C. § 112, first paragraph as allegedly not being enabled for the prophylaxis or treatment of the diseases recited in these claims, other than migraine headaches. The Examiner contends that the specification is enabling for compositions and a method of treating migraine headaches, but that the prophylaxis or treatment of the other recited diseases would require undue experimentation.

In first response, without conceding the validity of the rejection, claims 15 and 16 have been amended to remove the phrase "or prophylaxis." In further response, Applicants respectfully submit that the specification is enabling for the treatment of the diseases recited in claims 15-18. The compounds of formula (I) are 5-HT (serotonin) receptor agonists or antagonists and are useful to treat diseases in which the activity of either 5-HT receptors and/or melatonin is modulated. *See* amended specification at page 1, lines 18-22. As set forth in the present specification, it is well known in the art that serotonin is implicated in a variety of diseases and conditions of the central nervous system related to sleeping, eating, pain, control of body temperature, control of blood pressure, depression, anxiety, schizophrenia, as well as diseases and conditions involving contractile, secretory and electrophysiological functions of the gastrointestinal system. *See* amended specification at page 2, lines 11-20. Specifically, diseases and conditions known to involve 5-HT receptor modulation include anxiety, depression, hypertension, stroke, angina, obesity, compulsive disorders, schizophrenia, autism, Alzheimer's disease, Parkinsonism, Huntington's chorea, chemotherapy-induced vomiting, vascular disorders, Raymond's disease and

migraine. *See* amended specification, page 2, lines 24-28; page 3, lines 1-12; and page 4, line 1-
page 5, line 3.

Moreover, the methods by which compounds of the formula (I) can be used to treat these conditions are set forth in the specification at pages 23 through 24. Thus, one of ordinary skill in the art could practice the full scope of the instant claims without undue experimentation.

Accordingly, reconsideration of the claims and withdrawal of the rejections is requested.

Claims 1 and 2 are further rejected under 35 U.S.C. § 112, first paragraph, as allegedly not being enabled for derivatives, analogs, polymorphs or solvates of the compounds of formula (I) or the specific compounds recited in claim 2. Without conceding the validity of this rejection, claim 1 has been amended to remove the recitation of “derivative,” “analog,” “polymorph” or “solvate” of the compounds of formula (I) and claim 2 has been amended to remove the recitation of “polymorph” or “solvate” of the recited compounds. Applicants respectfully submit that derivatives, analogs, polymorphs or solvates of the compounds of formula (I) and polymorphs or solvates of the compounds recited in claim 2 are still covered by the amended claims, since the chemical substance of the derivative, analog, polymorph or solvate is the same as the claimed substance, and the presence or absence of the recitation of “derivative,” “analog,” “polymorph” or “solvate” does not alter the claim scope.

For at least the reasons set forth above, the specification enables the full breadth of the claims. Reconsideration of the claims and withdrawal of the instant rejection is requested.

Rejection under 35 U.S.C. § 112, Second Paragraph

Claims 6, 7 and 12 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for containing the term “modulating.”

Applicants respectfully traverse the rejection. The term “modulating” is well-known in the art to mean to change, *i.e.*, to increase or decrease the stated biological activity or function. In

addition, the instant specification discloses that the compounds of formula (I) are 5-HT receptor agonists or antagonists. *See* amended specification, page 1, lines 18-19. One skilled in the art would understand the meaning of a receptor agonist or antagonist as a substance that changes (*i.e.*, modulates) the activity of the receptor. For at least these reasons, claims 6, 7, and 12 are not indefinite.

Accordingly, reconsideration of the claims and withdrawal of the rejection is requested.

Objections to the Claims

Claims 3, 4 and 13 are objected to as being dependent upon a rejected base claim. The Examiner has indicated that these claims would be allowable if rewritten in independent form. Applicants submit that by way of this amendment, claim 1 has been placed in condition for allowance, and accordingly request that the claim objections be reconsidered and withdrawn.

CONCLUSION

This application is believed to be in condition for allowance, which is earnestly solicited. If there are any remaining issues that the Examiner believes could be resolved through either a telephone conference, a Supplemental Response, or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

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Respectfully submitted,

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